



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1369

Introduced 02/09/05, by Rep. Larry McKeon

SYNOPSIS AS INTRODUCED:

5 ILCS 315/9
5 ILCS 315/20

from Ch. 48, par. 1609
from Ch. 48, par. 1620

Amends the Illinois Public Labor Relations Act. Provides that for a unit of local government employing 2 or more employees a petition or request for recognition may be filed demonstrating that 75% or more of the employees wish to be exclusively represented in collective bargaining by a labor organization. Provides that the Illinois State Labor Relations Board shall investigate and process the petition or request for recognition according to Board rules. Includes these petitions or requests within the application of the Act. Effective July 1, 2005.

LRB094 07319 JAM 37477 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning public labor relations.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Sections 9 and 20 as follows:

6 (5 ILCS 315/9) (from Ch. 48, par. 1609)

7 Sec. 9. Elections; recognition.

8 (a) Whenever in accordance with such regulations as may be
9 prescribed by the Board a petition has been filed:

10 (1) by a public employee or group of public employees
11 or any labor organization acting in their behalf
12 demonstrating that 30% of the public employees in an
13 appropriate unit (A) wish to be represented for the
14 purposes of collective bargaining by a labor organization
15 as exclusive representative, or (B) asserting that the
16 labor organization which has been certified or is currently
17 recognized by the public employer as bargaining
18 representative is no longer the representative of the
19 majority of public employees in the unit; or

20 (2) by a public employer alleging that one or more
21 labor organizations have presented to it a claim that they
22 be recognized as the representative of a majority of the
23 public employees in an appropriate unit,

24 the Board shall investigate such petition, and if it has
25 reasonable cause to believe that a question of representation
26 exists, shall provide for an appropriate hearing upon due
27 notice. Such hearing shall be held at the offices of the Board
28 or such other location as the Board deems appropriate. If it
29 finds upon the record of the hearing that a question of
30 representation exists, it shall direct an election in
31 accordance with subsection (d) of this Section, which election
32 shall be held not later than 120 days after the date the

1 petition was filed regardless of whether that petition was
2 filed before or after the effective date of this amendatory Act
3 of 1987; provided, however, the Board may extend the time for
4 holding an election by an additional 60 days if, upon motion by
5 a person who has filed a petition under this Section or is the
6 subject of a petition filed under this Section and is a party
7 to such hearing, or upon the Board's own motion, the Board
8 finds that good cause has been shown for extending the election
9 date; provided further, that nothing in this Section shall
10 prohibit the Board, in its discretion, from extending the time
11 for holding an election for so long as may be necessary under
12 the circumstances, where the purpose for such extension is to
13 permit resolution by the Board of an unfair labor practice
14 charge filed by one of the parties to a representational
15 proceeding against the other based upon conduct which may
16 either affect the existence of a question concerning
17 representation or have a tendency to interfere with a fair and
18 free election, where the party filing the charge has not filed
19 a request to proceed with the election; and provided further
20 that prior to the expiration of the total time allotted for
21 holding an election, a person who has filed a petition under
22 this Section or is the subject of a petition filed under this
23 Section and is a party to such hearing or the Board, may move
24 for and obtain the entry of an order in the circuit court of
25 the county in which the majority of the public employees sought
26 to be represented by such person reside, such order extending
27 the date upon which the election shall be held. Such order
28 shall be issued by the circuit court only upon a judicial
29 finding that there has been a sufficient showing that there is
30 good cause to extend the election date beyond such period and
31 shall require the Board to hold the election as soon as is
32 feasible given the totality of the circumstances. Such 120 day
33 period may be extended one or more times by the agreement of
34 all parties to the hearing to a date certain without the
35 necessity of obtaining a court order. Nothing in this Section
36 prohibits the waiving of hearings by stipulation for the

1 purpose of a consent election in conformity with the rules and
2 regulations of the Board or an election in a unit agreed upon
3 by the parties. Other interested employee organizations may
4 intervene in the proceedings in the manner and within the time
5 period specified by rules and regulations of the Board.
6 Interested parties who are necessary to the proceedings may
7 also intervene in the proceedings in the manner and within the
8 time period specified by the rules and regulations of the
9 Board.

10 (a-5) The Board shall designate an exclusive
11 representative for purposes of collective bargaining when the
12 representative demonstrates a showing of majority interest by
13 employees in the unit. If the parties to a dispute are without
14 agreement on the means to ascertain the choice, if any, of
15 employee organization as their representative, the Board shall
16 ascertain the employees' choice of employee organization, on
17 the basis of dues deduction authorization and other evidence,
18 or, if necessary, by conducting an election. If either party
19 provides to the Board, before the designation of a
20 representative, clear and convincing evidence that the dues
21 deduction authorizations, and other evidence upon which the
22 Board would otherwise rely to ascertain the employees' choice
23 of representative, are fraudulent or were obtained through
24 coercion, the Board shall promptly thereafter conduct an
25 election. The Board shall also investigate and consider a
26 party's allegations that the dues deduction authorizations and
27 other evidence submitted in support of a designation of
28 representative without an election were subsequently changed,
29 altered, withdrawn, or withheld as a result of employer fraud,
30 coercion, or any other unfair labor practice by the employer.
31 If the Board determines that a labor organization would have
32 had a majority interest but for an employer's fraud, coercion,
33 or unfair labor practice, it shall designate the labor
34 organization as an exclusive representative without conducting
35 an election.

36 (a-10) Whenever a petition or a request for recognition has

1 been filed pursuant to this Section demonstrating that 75% or
2 more of the employees of a unit of local government employing 2
3 or more employees wish to be represented for the purposes of
4 collective bargaining by a labor organization as exclusive
5 representative, the Board shall investigate the petition or
6 request for recognition and, if it has reason to believe that
7 the petition or request for recognition has been endorsed by
8 75% of the employees of the bargaining unit, shall process the
9 petition or request for recognition pursuant to Board rules.

10 (b) The Board shall decide in each case, in order to assure
11 public employees the fullest freedom in exercising the rights
12 guaranteed by this Act, a unit appropriate for the purpose of
13 collective bargaining, based upon but not limited to such
14 factors as: historical pattern of recognition; community of
15 interest including employee skills and functions; degree of
16 functional integration; interchangeability and contact among
17 employees; fragmentation of employee groups; common
18 supervision, wages, hours and other working conditions of the
19 employees involved; and the desires of the employees. For
20 purposes of this subsection, fragmentation shall not be the
21 sole or predominant factor used by the Board in determining an
22 appropriate bargaining unit. Except with respect to non-State
23 fire fighters and paramedics employed by fire departments and
24 fire protection districts, non-State peace officers and peace
25 officers in the State Department of State Police, a single
26 bargaining unit determined by the Board may not include both
27 supervisors and nonsupervisors, except for bargaining units in
28 existence on the effective date of this Act. With respect to
29 non-State fire fighters and paramedics employed by fire
30 departments and fire protection districts, non-State peace
31 officers and peace officers in the State Department of State
32 Police, a single bargaining unit determined by the Board may
33 not include both supervisors and nonsupervisors, except for
34 bargaining units in existence on the effective date of this
35 amendatory Act of 1985.

36 In cases involving an historical pattern of recognition,

1 and in cases where the employer has recognized the union as the
2 sole and exclusive bargaining agent for a specified existing
3 unit, the Board shall find the employees in the unit then
4 represented by the union pursuant to the recognition to be the
5 appropriate unit.

6 Notwithstanding the above factors, where the majority of
7 public employees of a craft so decide, the Board shall
8 designate such craft as a unit appropriate for the purposes of
9 collective bargaining.

10 The Board shall not decide that any unit is appropriate if
11 such unit includes both professional and nonprofessional
12 employees, unless a majority of each group votes for inclusion
13 in such unit.

14 (c) Nothing in this Act shall interfere with or negate the
15 current representation rights or patterns and practices of
16 labor organizations which have historically represented public
17 employees for the purpose of collective bargaining, including
18 but not limited to the negotiations of wages, hours and working
19 conditions, discussions of employees' grievances, resolution
20 of jurisdictional disputes, or the establishment and
21 maintenance of prevailing wage rates, unless a majority of
22 employees so represented express a contrary desire pursuant to
23 the procedures set forth in this Act.

24 (d) In instances where the employer does not voluntarily
25 recognize a labor organization as the exclusive bargaining
26 representative for a unit of employees, the Board shall
27 determine the majority representative of the public employees
28 in an appropriate collective bargaining unit by conducting a
29 secret ballot election, except as otherwise provided in
30 subsection (a-5). Within 7 days after the Board issues its
31 bargaining unit determination and direction of election or the
32 execution of a stipulation for the purpose of a consent
33 election, the public employer shall submit to the labor
34 organization the complete names and addresses of those
35 employees who are determined by the Board to be eligible to
36 participate in the election. When the Board has determined that

1 a labor organization has been fairly and freely chosen by a
2 majority of employees in an appropriate unit, it shall certify
3 such organization as the exclusive representative. If the Board
4 determines that a majority of employees in an appropriate unit
5 has fairly and freely chosen not to be represented by a labor
6 organization, it shall so certify. The Board may also revoke
7 the certification of the public employee organizations as
8 exclusive bargaining representatives which have been found by a
9 secret ballot election to be no longer the majority
10 representative.

11 (e) The Board shall not conduct an election in any
12 bargaining unit or any subdivision thereof within which a valid
13 election has been held in the preceding 12-month period. The
14 Board shall determine who is eligible to vote in an election
15 and shall establish rules governing the conduct of the election
16 or conduct affecting the results of the election. The Board
17 shall include on a ballot in a representation election a choice
18 of "no representation". A labor organization currently
19 representing the bargaining unit of employees shall be placed
20 on the ballot in any representation election. In any election
21 where none of the choices on the ballot receives a majority, a
22 runoff election shall be conducted between the 2 choices
23 receiving the largest number of valid votes cast in the
24 election. A labor organization which receives a majority of the
25 votes cast in an election shall be certified by the Board as
26 exclusive representative of all public employees in the unit.

27 (f) A labor organization shall be designated as the
28 exclusive representative by a public employer, provided that
29 the labor organization represents a majority of the public
30 employees in an appropriate unit. Any employee organization
31 which is designated or selected by the majority of public
32 employees, in a unit of the public employer having no other
33 recognized or certified representative, as their
34 representative for purposes of collective bargaining may
35 request recognition by the public employer in writing. The
36 public employer shall post such request for a period of at

1 least 20 days following its receipt thereof on bulletin boards
2 or other places used or reserved for employee notices.

3 (g) Within the 20-day period any other interested employee
4 organization may petition the Board in the manner specified by
5 rules and regulations of the Board, provided that such
6 interested employee organization has been designated by at
7 least 10% of the employees in an appropriate bargaining unit
8 which includes all or some of the employees in the unit
9 recognized by the employer. In such event, the Board shall
10 proceed with the petition in the same manner as provided by
11 paragraph (1) of subsection (a) of this Section.

12 (h) No election shall be directed by the Board in any
13 bargaining unit where there is in force a valid collective
14 bargaining agreement. The Board, however, may process an
15 election petition filed between 90 and 60 days prior to the
16 expiration of the date of an agreement, and may further refine,
17 by rule or decision, the implementation of this provision.
18 Where more than 4 years have elapsed since the effective date
19 of the agreement, the agreement shall continue to bar an
20 election, except that the Board may process an election
21 petition filed between 90 and 60 days prior to the end of the
22 fifth year of such an agreement, and between 90 and 60 days
23 prior to the end of each successive year of such agreement.

24 (i) An order of the Board dismissing a representation
25 petition, determining and certifying that a labor organization
26 has been fairly and freely chosen by a majority of employees in
27 an appropriate bargaining unit, determining and certifying
28 that a labor organization has not been fairly and freely chosen
29 by a majority of employees in the bargaining unit or certifying
30 a labor organization as the exclusive representative of
31 employees in an appropriate bargaining unit because of a
32 determination by the Board that the labor organization is the
33 historical bargaining representative of employees in the
34 bargaining unit, is a final order. Any person aggrieved by any
35 such order issued on or after the effective date of this
36 amendatory Act of 1987 may apply for and obtain judicial review

1 in accordance with provisions of the Administrative Review Law,
2 as now or hereafter amended, except that such review shall be
3 afforded directly in the Appellate Court for the district in
4 which the aggrieved party resides or transacts business. Any
5 direct appeal to the Appellate Court shall be filed within 35
6 days from the date that a copy of the decision sought to be
7 reviewed was served upon the party affected by the decision.

8 (Source: P.A. 93-427, eff. 8-5-03; 93-444, eff. 8-5-03; revised
9 9-10-03.)

10 (5 ILCS 315/20) (from Ch. 48, par. 1620)

11 Sec. 20. Prohibitions.

12 (a) Nothing in this Act shall be construed to require an
13 individual employee to render labor or service without his
14 consent, nor shall anything in this Act be construed to make
15 the quitting of his labor by an individual employee an illegal
16 act; nor shall any court issue any process to compel the
17 performance by an individual employee of such labor or service,
18 without his consent; nor shall the quitting of labor by an
19 employee or employees in good faith because of abnormally
20 dangerous conditions for work at the place of employment of
21 such employee be deemed a strike under this Act.

22 (b) This Act shall not be applicable to units of local
23 government employing less than 5 employees at the time the
24 Petition for Certification or Representation is filed with the
25 Board. This prohibition shall not apply to (i) bargaining units
26 in existence on the effective date of this Act, (ii) units of
27 local government employing more than 5 ~~35~~ employees where the
28 total number of employees falls below 5 ~~35~~ after the Board has
29 certified a bargaining unit, (iii) ~~and~~ fire protection
30 districts required by the Fire Protection District Act to
31 appoint a Board of Fire Commissioners, and (iv) units of local
32 government as provided by subsection (a-10) of Section 9.

33 (Source: P.A. 93-442, eff. 1-1-04; 93-1080, eff. 6-1-05;
34 revised 1-25-05.)

1 Section 99. Effective date. This Act takes effect July 1,
2 2005.